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DIGESTIVE HEALTH ASSOCIATES, LLC (improperly named as  
6 "DIGESTIVE HEALTH CENTER, LLC")  
7

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA  
10

11 JESSICA DAVIS, an individual,

12 Plaintiff,

13 vs.

14 DIGESTIVE HEALTH CENTER, LLC, a  
Nevada limited liability corporation, dba  
15 DIGESTIVE HEALTH ASSOCIATES;  
and DOES 1 through 20,;

16 Defendants.  
17

Case No. 3:18-cv-00267-LRH-WGC

**STIPULATION AND PROTECTIVE  
ORDER REGARDING CONFIDENTIAL  
INFORMATION AND RECORDS**

18 **I.**

19 **STIPULATION**

20 In order to protect the confidentiality of confidential information obtained by the parties in  
21 connection with this case, the parties hereby agree as follows:

22 1. Any party or non-party may designate as "confidential" (by stamping the relevant  
23 page or other otherwise set forth herein) any document or response to discovery which that party or  
24 non-party considers in good faith to contain information involving confidential medical or  
25 psychological treatment, confidential portions of employee personnel files, trade secrets, or  
26 confidential business or financial information, subject to protection under the Federal Rules of Civil  
27 Procedure or Nevada law ("Confidential Information"). Where a document or response consists of  
28 more than one page, the first page and each page on which confidential information appears shall be

1 so designated.

2           2.       A party or non-party may designate information disclosed during a deposition or in  
3 response to written discovery as “confidential” by so indicating in said response or on the record at  
4 the deposition and requesting the preparation of a separate transcript of such material. Additionally,  
5 a party or non-party may designate in writing, within twenty (20) days after receipt of said responses  
6 or of the deposition transcript for which the designation is proposed, that specific pages of the  
7 transcript and/or specific responses be treated as “confidential” information. Any other party may  
8 object to such proposal, in writing or on the record. Upon such objection, the parties shall follow the  
9 procedures described in paragraph 8 below. After any designation made according to the procedure  
10 set forth in this paragraph, the designated documents or information shall be treated according to the  
11 designation until the matter is resolved according to the procedures described in paragraph 8 below,  
12 and counsel for all parties shall be responsible for making all previously unmarked copies of the  
13 designated material in their possession or control with the specified designation.

14           3.       All information produced or exchanged in the course of this case (other than  
15 information that is publicly available) shall be used by the party or parties to whom the information  
16 is produced solely for the purpose of this case.

17           4.       Except with the prior written consent of other parties, or upon prior order of this  
18 Court obtained upon notice to opposing counsel, Confidential Information shall not be disclosed to  
19 any person other than:

20           (a)      counsel for the respective parties to this litigation, including in-house counsel and co-  
21 counsel retained for this litigation;

22           (b)      employees of such counsel;

23           (c)      individual defendants, class representatives, any officer or employee of a party, any  
24 insurer of a party, to the extent deemed necessary by counsel for the prosecution or defense of this  
25 litigation;

26           (d)      consultants or expert witnesses retained for the prosecution or defense of this  
27 litigation, provided that each such person shall execute a copy of the Certification annexed to the  
28 *Stipulation and Protective Order* as Exhibit “A” (which shall be retained by counsel to the party so

1 disclosing the Confidential Information and made available for inspection by opposing counsel  
2 during the pendency or after the termination of the action only upon good cause shown and upon  
3 order of the Court) before being shown or given any Confidential Information and provided that if  
4 the party chooses a consultant or expert employed by the parties, the party shall notify the opposing  
5 party, or designating nonparty, before disclosing any Confidential Information to that individual and  
6 shall give the opposing party an opportunity to move for a protective order preventing or limiting  
7 such disclosure;

8 (e) any authors or recipients of the Confidential Information;

9 (f) the Court, Court personnel, and court reporters; and witnesses (other than persons  
10 described in paragraph 4(e)). A witness shall sign the Certification before being shown a confidential  
11 document. Confidential Information may be disclosed to a witness who will not sign the  
12 Certification only in a deposition at which the party who designated the Confidential Information is  
13 represented or has been given notice that Confidential Information shall be designated  
14 “Confidential” pursuant to paragraph 2 above. Witnesses shown Confidential Information shall not  
15 be allowed to retain copies.

16 5. Any persons receiving Confidential Information shall not reveal or discuss such  
17 information to or with any person who is not entitled to receive such information, except as set forth  
18 herein.

19 6. No party or non-party shall file or submit for filing as part of the court record any  
20 documents under seal without first obtaining leave of court. Notwithstanding any agreement among  
21 the parties, the party seeking to file a paper under seal bears the burden of overcoming the  
22 presumption in favor of public access to papers filed in court.

23 7. A party may designate as “Confidential” documents or discovery materials produced  
24 by a non-party by providing written notice to all parties of the relevant document numbers or other  
25 identification within thirty (30) days after receiving such documents or discovery materials. Any  
26 party or non-party may voluntarily disclose to others without restriction any information designated  
27 by that party or non-party as confidential, although a document may lose its confidential status if it is  
28 made public.

1           8.       If a party contends that any material is not entitled to confidential treatment, such  
2 party may at any time give written notice to the party or non-party who designated the material. The  
3 party or non-party who designated the material shall have twenty-five (25) days from the receipt of  
4 such written notice to apply to the Court for an order designating the material as confidential. The  
5 party or non-party seeking the order has the burden of establishing that the document is entitled to  
6 protection.

7           9.       Notwithstanding any challenge to the designation of material as Confidential  
8 Information, all documents shall be treated as such and shall be subject to the provisions hereof  
9 unless and until one of the following occurs:

10           (a)     the party or non-party claims that the material is Confidential Information withdraws  
11 such designation in writing; or

12           (b)     the party or non-party who claims that the material is Confidential Information fails  
13 to apply to the Court for an order designating the material confidential within the time period  
14 specified above after receipt of a written challenge to such designation; or

15           (c)     the Court rules the material is not confidential.

16           10.     All provisions of this Order restricting the communication or use of Confidential  
17 Information shall continue to be binding after the conclusion of this action, unless otherwise agreed  
18 or ordered. Upon conclusion of the litigation, a party in the possession of Confidential Information,  
19 other than that which is contained in pleadings, correspondence, and deposition transcripts, shall  
20 either:

21           (a)     return such documents no later than thirty (30) days after conclusion of this action to  
22 counsel for the party or non-party who provided such information, or

23           (b)     destroy such documents within the time period upon consent of the party who  
24 provided the information and certify in writing within thirty (30) days that the documents have been  
25 destroyed.

26           11.     The terms of this Order do not preclude, limit, restrict, or otherwise apply to the use  
27 of documents at trial.

28           12.     Nothing herein shall be deemed to waive any applicable privilege or work product

1 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material  
2 protected by privilege or work product protection.

3 Any witness or other person, firm or entity from which discovery is sought may be informed  
4 of and may obtain the protection of this Order by written advice to the parties' respective counsel or  
5 by oral advice at the time of any deposition or similar proceeding.

6 Dated: July 31, 2018

Dated: July 31, 2018

7  
8 /s/Kenneth K. Ching  
9 KENNETH K. CHING  
DICKINSON WRIGHT PLLC

/s/Sandra Ketner  
SANDRA KETNER  
LITTLER MENDELSON, P.C.

10 Attorneys for Plaintiff  
11 JESSICA DAVIS

Attorneys for Defendant  
DIGESTIVE HEALTH ASSOCIATES, LLC  
(improperly named as "DIGESTIVE HEALTH  
CENTER, LLC")

12 **ORDER**

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14 **Paragraph 6:** Any motion regarding filing confidential information and motions to seal  
15 shall comply with LR IA 10-5, the dictates of *Kamakana v. City and County of Honolulu*, 447 F.3d  
16 1172 (9th Cir. 2006), and *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th  
Cir. 2016).

17 **Paragraph 10:** The Protective Order is modified to reflect that although the parties may  
18 agree to be bound by the confidentiality terms of this Order beyond the conclusion of this lawsuit,  
19 the dismissal of this action will terminate the jurisdiction of this court.

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21 **IT IS SO ORDERED.**

22 DATED: August 1, 2018.

23   
24 UNITED STATES MAGISTRATE JUDGE

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**EXHIBIT A**

**CERTIFICATION**

I hereby certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated \_\_\_\_\_, in the case of *Jessica Davis v. Digestive Health Center, LLC*, Civil No. CASE NO: 3:18-cv-00267-LRH-WGC. I have been given a copy of that Order and read it. I agree to be bound by the Order. I will not reveal the Confidential Information to anyone, except as allowed by the Order. I will maintain all such Confidential Information – including copies, notes, or other transcriptions made therefrom – in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information -- including copies, notes or other transcriptions made therefrom – to the counsel who provided me with the Confidential Information. I hereby consent to the jurisdiction of the United States District Court for the purpose of enforcing the Protective Order.

DATED: \_\_\_\_\_.

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